Supreme Court U.S.
F I L E D

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OFFICE OF THE CLERK

No._____

In The
Supreme Court of the United States

GEORGE E. ESPY,
Petitioner,

v.

BOROUGH OF ROARING SPRING,
Respondent.

On Petition For Writ Of Certiorari
To The Supreme Court of Pennsylvania

PETITION FOR WRIT OF CERTIORARI

George E. Espy
841 William Street
Roaring Spring, PA 16673-1145
(814) 793-2300
Attorney Pro Se

23M

QUESTIONS PRESENTED

I. Was the attack by Borough in this case too great an effect on the land of the record owners land and assets while the action was detrimental to the land and owner under the influence of Amendment Ten of U.S. Constitution--Powers to the People and Amendment Five--Just Compensation?

II. Was the court negligent in not considering the effect on Freehold land jurisdiction by the record owner of the abutting property?

III. Is this in effect the same as cruel and unusual punishment as per U.S. Constitution Amendment Eight nor cruel and unusual punishment be inflicted?

IV. Do the demands encroach on the daily productive efforts of an 80 year old man in a quality and quantity to justify return to the trial court to consider facts relevant thereto?

V. How far can government go in attacking assets of abutting property record owner when regrading action (pavement and curb) took place ten feet and more from frontage of abutting property record owner to pay for regrading as above?

VI. Can a state grant freehold same alloidal land title to a record owner, then set aside the jurisdiction said state granted to record owner by statute as follows. State allows by statute municipality to regrade street and charge abutting record owner for cost of regrade (1/3 of pavement and curb)?

VII. Is this statute allowable by federal law or constitution?

Can the following decisions be reversed or modified, justified as follows:

VIII. Can an attacking party collect costs for pavement and curb the same regrading from an abutting property owner over said owner's objection when there is no benefit from said regrading?

IX. And, the regrading process is detrimental to the abutting property?

#VIII and #IX are compared to the grading that was in existence at said property before the referred to regrading.

X. The main question is who limits the set aside of the freehold jurisdiction government can make in adversity to the freeholding record owner of land?

XI. Can government do as it has in this case; make regrading and pavement and curb, then attack the assets of the abutting land record owner as herein, where the land above is damaged in the result of the regrading?

XII. Some damage to the land referred to above may be considered to be "taking of private property for public use without just compensation" as in Amendment Five of the United States Constitution, was it?

XIII. Question is, does the record owner hold sovereignty on said owner's land or is the owner a subject of the government in relevance to freehold same alloidal land title?

XIV. Is George E. Espy's reference to Pennsylvania Right to Farm Law useable in this case, where new (changes) in use in neighboring parcels bring adversity to an originai adjacent owner and use?

XV. Is George E. Espy's reference to Return to or toward Feudal Government useable or valid in this case?

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14. 1. (d) Citation of Official Reports Entered in the Case by Courts

In the Commonwealth Court of Pennsylvania
Memorandum Opinion by Judge Smith
Filed July 24, 1998

14.1. (e) (i) Date Filed 7/30/97

The Court of Common Pleas Blair County Pennsylvania
Borough of Roaring Spring v. George E. Espy 94 EX 86
Order Dated July 28, 1997

Findings of fact with order dated 7/28/97 directing Plaintiff is permitted to proceed in compliance with Pennsylvania Municipal Code to foreclose on the subject real estate of Defendant, Dr. George Espy, located on William Street in Borough of Roaring Spring per Judge Jolene G. Kopriva, Judge - Blair County Court of Common Pleas.

Additionally there was an order following the first hearing dated then July 2, 1995, Plaintiff Borough to Foreclosure against the Real Estate of Defendant located in Borough of Roaring Spring. Resulting from Finding of Fact order by Judge Jolene G. Kopriva dated July 1, 1995.

(ii) Rehearing denied by Supreme Court of Pennsylvania, June 4, 1999.

(iv) Statutory provision conferring on the Supreme Court of United States jurisdiction to review on a Writ of Certiorari the order follows United States Constitution Amendment Ten.

The powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people Abuse of local governmental power, when of constitutional magnitude, is power "denied the states" by Constitution within meaning of Tenth Amendment and powers to remedy unconstitutional wrong is one "Delegated to the United States by the Constitution"

Bolden v. Mobile
(1978 CA 5 ala) 571 F 2d 238

14.1.(f) Statutes Citation
Text in Appendix
Pennsylvania Title 33 Article I
Pennsylvania land titles are freehold same alloidal above amplified in Pennsylvania Supreme Court Reports Volume 44, Page 492, Wallace V. Harmstad.

All lands in Pennsylvania are held in freehold same alloidal titles.

14. 1. (g) Concise Statement of the Case
Preface
The controversy here is a party expects to execute on a lien placed for work done ten feet and more off from frontage of an abutting parcel of land.

Party above is a non-owning party.

Record owner of parcel resists collection legal action. Record owner claims in Pennsylvania Freehold same alloidal Land Title Record Owner holds allows record owner to completely claim exoneration from collection action.

In Pennsylvania Freehold same alloidal land title makes record owner of land sovereign on record owner's own land. No one but owner can create debt against said land.

14.1(g)(h) Throughout this case George E. Espy, Petitioner, has stated as follows:

The state does not have the power to overcome the sovereignty of record owner of the land concerned herein, George E. Espy.

The Borough concerned claims power from the state. The state lost this power as follows in Title 33 Article I.

The state granted freehold title to the first owner. This freehold title was vested in George E. Espy in 1963.

Relevant hereto is Amendment Ten of the United States Constitution Powers Reserved to the States or People. The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Abuse of local governmental power, when of constitutional magnitude is power "Denied the States" by Constitution within the meaning of the Tenth Amendment and power to remedy unconstitutional wrong is one "Delegated to the United States by the Constitution."

Bolden v. Mobile
(1978 CA 5 ala)
571 F 2d 238

14. 1. (i) Federal Questions were raised.

I. Age of George E. Espy was in introduction of all papers submitted in this case, 78 years, and passed in most briefs and other papers. In all cases, all courts ignored the age factor. Above is relevant to cruel and unusual effects of all findings of fact and orders of this case.

II. In both Trial Court hearings, George E. Espy stated facts concerning parallels between Pennsylvania Right to Farm Law of

Act 1982-133 No 1982-133
HB 1823

protecting agricultural operations from nuisance suits and ordinances under certain circumstances.

137.1 Authority

(b).....assessed at the value it has for that use rather than at development value.

III. Court of Common Pleas Blair County Pennsylvania

Borough of Roaring Spring	:	
Plaintiff	:	1994 EX 86
v.	:	
Dr. George E. Espy	:	
Defendant	:	

Defendant Hearing Transcript
September 20, 1999
Page 26, Line 5 and Line 6
That Power is affected by the Federal Constitution.

Line 8

Abuse by the Trial Court was carried on to the Commonwealth Court. Additionally, in both hearings Dr. Espy

presented evidence such that Commonwealth Court of Pennsylvania Concluded regrading was proper wording to describe entire process in action by Borough in William Street for which lien is now being collected and collection has been granted per transcript of September 20, 1999 hearing and order.

Abuse is the natural result when the Borough of Roaring Spring collected moneys for a regrade process when it did not have the power to so collect.

Alloidal Power of the Record Owner of Land is well-established in the necessity of compensation when land is taken by government for any purpose.

14.1(h)(vi) Reasons for Granting the Writ

No other case could have the same circumstance as this case. The numerous advances and recedents shows there is a three lane highway at one end of the lots and then in 1982 Borough of Roaring Spring acted resulting in regrading of William Street at the other end of the lots herein concerned. A lien was placed to pay George E. Espy share of expense for what was called a regrading.

Throughout all legal actions George E. Espy has claimed exoneration from any claim against his, Espy, real estate.

Above exoneration is justified by Freehold same alloidal Title held by Espy on his land.

CONCLUSION

The remedy for G. Espy lies in the reasonable application of physical and legal facts.

At no time did the Borough of Roaring Spring refute the claims of George E. Espy that same Espy held Freehold same alloidal title to his, Espy, land herein concerned.

Freehold Land Title gives the same title holder sovereignty in complete. Above said title holder only can establish debt against said land. Therefore, Borough of Roaring Spring cannot collect debt against Espy land as herein as said Espy did not surrender his Freehold same alloidal land title as in Wallace v. Harmstad, Volume 44, Page 492, Pennsylvania State Supreme Court reports alloidal land titles extend to all land in Pennsylvania.

Claim by George E. Espy throughout the case that the Borough of Roaring Spring and Courts advance with abuse of power.

Signature

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In The
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GEORGE E. ESPY,
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v.

BOROUGH OF ROARING SPRING,
Respondent.

On Petition For Writ Of Certiorari
To The Supreme Court of Pennsylvania

APPENDIX TO
PETITION FOR WRIT OF CERTIORARI

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Rule 14.1 (i) (vi) **INTRODUCTION (PREAMBLE)**
George E. Espy, Petitioner, Graduate Licensed Practicing Veterinarian. Age December of 1999 will be one full month in the eightieth year of life for George E. Espy, BS, VMD. Hereinafter G. Espy.

Rule 14 1 (g) (i)

The Trial Court and Commonwealth Court of Pennsylvania refused to accept the effect of testimony of G. Espy as follows.

In both trials in Trial Court the Federal questions were raised continually by G. Espy contesting the power of the Borough of Roaring Spring. Above power referred to is the jurisdiction of the record owner on his own land conferred by freehold same alloidal land titles in Pennsylvania. Federal relevance is in this petition later on. It was properly before the Courts including the Supreme Court of Pennsylvania, the State Court of last resort, the competence of G. Espy and his power on his own land. Later the relevance of the United States will show power relationships delegated to the people, in this case, sovereignty of a record owner on owner's own land.

Nearing 80, G. Espy will rely on appendix to continue chronology and cohesiveness.

The main contention concerns a person should be allowed to pursue the opportunity to obtain an ordinary existence as an ordinary human under ordinary circumstance on his or her own land.

In this case there is a great departure from the above in the demands of Borough of Roaring Spring.

Rule 14 1 (i) Appendix

May 17, 1996 Order Dated May 7, 1996
No.1668 CD 1995
Roaring Spring v. George E. Espy
Commonwealth Court of Pennsylvania

Order of Blair County is vacated, and this matter is remanded for further proceedings with the foregoing opinion jurisdiction relinquished.

Foregoing opinion Espy needed opportunity to testify. Court above concluded process in question was a regrading.

January 8, 1997 Order Dated January 3, 1997
Dr. Espy to submit to Plaintiff counterclaim
Blair County Court 94EX86
Roaring Spring v. George E. Espy

Pennsylvania Statutes
Title 33 Article I
Freehold same Alloidal

Pennsylvania State Supreme Court
Philadelphia Reports, Volume 44
Wallace v. Harmstad.
"Titles to Land in Pennsylvania are alloidal."

Laws of Pennsylvania
454 Act 1982-133 No. 1982-133
AN ACT HB 1823
"Protecting agricultural operations from nuisance suits and ordinances under certain circumstances."

General Provisions 137.1 Authority (b)
"...assessed at the value it has for that use rather than at development value."

(iii) Rehearing Denied
Supreme Court of Pennsylvania
Western District
Russell J. Montgomery, Esquire Counsel for:
Borough of Roaring Spring, Respondent
v. George E. Espy, Petitioner
No. 0765 WD Allocatur Docket 1998 Filed 10/15/98

In reference to Application for Rehearing in Above Case
Date of Entry: June 4, 1999 Denied

Court of Common Pleas Blair County Pennsylvania
94 EX 86 Roaring Spring
vs. Espy George E.
July 1, 1995 Order for Permission to Foreclose
Against the Real Estate of Defendant in Roaring Spring.

Trial Court Blair County Pennsylvania
Roaring Spring v. George E. Espy 94 EX 86
Order dated July 28, 1997
Entered July 30, 1997
Directing plaintiff is permitted to proceed in compliance with PA Municipal Code to Foreclose on the Subject Real Estate of Defendant, Dr. George E. Espy located on William Street in Borough of Roaring Spring per Judge Jolene G. Kopriva

July 24, 1998 Commonwealth Court of PA
#2486 CD 1997 Case Order July 24, 1998
Roaring Spring v. George E. Espy
The Order of Blair County is affirmed.

March 26, 1999, Supreme Court of Pennsylvania
No. 765 WD allocatur Docket 1998

April 21, 1999, Order Entered
Petition for Allowance of Appeal by G. Espy Denied.

June 4, 1999, Above Court
Supreme Court of Pennsylvania
Order Rehearing Denied
No. 765 WD 1998
Roaring Spring v. G. Espy

Pretrial Unrecorded Exchange

December 5, 1996 Order Dated December 5, 1996
Setting Pretrial for January 3, 1997
In which Trial Court admitted by the words, "I understand what you mean," in reply to George E. Espy
Said damages to land herein concerned accrue daily.
Losses, damages, costs, expenses and more, Espy stated resulted from regrading.

Also George E. Espy had stated in same hearing
This is a case where a non-owning party attempts to establish debt against a record owner of land and collect for action, regrading, off from land.

Atmospheric cooling with increase the efficiency of the

Petitioner George E. Espy
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

ROARING SPRING BOROUGH :
:
V. : NO. 2486 C.D. 1997
: SUBMITTED: APRIL 3,1 998
GEORGE E ESPY, :
Appellant :

BEFORE: Honorable James Gardner, Colins, President Judge
Honorable Doris A. Smith, Judge
Honorable Charles A. Lord, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE SMITH FILED: July 24, 1998

Dr. George E. Espy, pro se, appeals from an order of the Court of Common Pleas of Blair County (trial court) that permitted the Borough of Roaring Spring (Borough) to proceed to foreclose against real estate owned by Espy on William Street in the Borough to satisfy a municipal lien filed by the Borough against Espy's property. This Court previously remanded this case to the trial court for it to allow Espy the opportunity to present additional evidence and to offer any arguments that he wished and for the Borough to comply with the trial court's January 5, 1995, order. That order required the Borough to provide Espy with a pre-trial narrative that included the Borough's basis for its authority to pursue the claim against Espy and to list all witnesses the Borough expected to call and their intended testimony. On remand the Borough provided Espy with its pretrial narrative, and the trial

court further complied with the Court's directive to allow Espy to present additional evidence.

Espy continues to question, among other things, whether the Borough had jurisdiction to file a municipal lien against his property and whether the trial court satisfied the requirements imposed by this Court in its May 7, 1995, remand order. The factual background is set forth in this court's memorandum opinion in Borough of Roaring Spring v. George T. Espy, No. 1668 C.D. 1995, filed May 7, 1996. The Court vacated the trial court's order and remanded the matter for further proceedings to enable the Court to perform its appellate review of Espy's challenge to the municipal lien filed against his property by the Borough due to Espy's nonpayment of his share of the costs for regrading and paving Williams Street.

On remand, Espy testified that his rights were superior to those of the Borough and that he should not have to pay for the improvements made to the sidewalk near his property because there was no benefit to his land. He further stated that he was not convinced that William Street had been dedicated for public use since the motion to dedicate William Street had not been seconded or accepted by the Borough Council. He offered no documentary evidence. Mary Elliott, Borough Administrator, testified that the documents offered by Borough Counsel as evidence were true copies to her knowledge, and the trial court accepted the documents as authentic. The documents established the William Street was a part of the revised plot plan of the Cove View Heights

project and was dedicated and accepted by the Borough Council. On cross-examination, Ms. Elliott explained that the Borough Council's acceptance of the motion to dedicate William Street was implied because the President of Council, the Borough Secretary and the Burgess were authorized to sigh the revised plot plan of Cove View Heights for recording at the courthouse.

The trial court found, inter alia, that William Street renamed in the revised plot plan of Cove View Heights approved February 7, 1995; that the Borough at a public meeting dated March 8, 1962, an din Ordinance No. 1982-4 agreed to add street and curbing improvements to William street; that the costs of improvements to Espy's property plus interest to date was $16,597.53; that Espy has not paid for the improvements despite the existence of a lien against the property for almost 13 years; and that Espy received a copy of any and all pre-trial narratives filed, was provided an opportunity to present any and all witnesses and evidence and was provided a copy of all public documents entered as exhibits. The trial court concluded that the Borough's Municipal lien was in full compliance with the law, that the Borough provided proper notice for execution of the lien and that the Borough established the authenticity and integrity of the lien and the right to proceed as a lien holder to foreclose on the lien.[1]

Espy argues that the municipal lien placed on his property is not valid essentially because William Street was not properly

[1]This Court's review of a trial court's decision is limited to determining whether it abused its discretion, whether an error of law was committed or whether constitutional rights were violated. Dreibelbis v. State College Borough Water Auth., 654 A.2d 52 (Pa. Cmwlth. 1994).

dedicated and accepted by the Borough Council. The Borough counters that the municipal lien is proper since the Borough Council dedicated William Street to become a part of the Cove View Heights plan that it had approved. It also maintains that there is a presumption that property is benefited by improvements made in front of a landowner's property. Philadelphia v. Eddleman, 169 Pa. 452, 32 A. 639 (1895). Also in Upper Gwynedd Township Authority v. Roth, 536 A.2d 875 (Pa. Cmwlth. 1988), the Court held that whether a landowner's property is benefited is a question of fact and that the finding would not be disturbed if supported by substantial evidence. The Borough in any event contends that Espy did not raise the benefit issue until the remand hearing, and he only then made an unsubstantiated allegation that his property was not benefited.

Section 4 of the Act of May 16, 1923, P.L. 207, as amended, 53 P.S. o 7107, provides for the filing of municipal liens for grading, paving, macadamizing or improving cartways and for curbing and sewer projects. If a landowner does not pay his or her proportional share of the cost of the improvements, a municipal lien may be filed against the landowner's property in the form of a writ of scire facias. Roth. The Court will not invalidate the municipal lien against Espy's property because he has failed to establish that William Street was not properly dedicated and accepted by the Borough Council and because he has failed to demonstrate any validity to the claim that he lacked a benefit from the improvements made by the Borough. The trial court found Espy's arguments

unpersuasive, and this Court finds no error by the Trial Court.[2] The trial court's order is therefore affirmed.

s/_____
DORIS A. SMITH, Judge

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[2]At the remand hearing, Espy was allowed to state fully why he opposed the municipal lien against his property. After he testified, the trial court judge then summarized his testimony to ensure clarity of his position. The Court is satisfied that the trial court complied with the Court's remand order.

Furthermore, the Court notes that Espy makes no legal argument regarding the trial court's alleged denial of his request for hearing impairment consideration. It is not the Court's duty to create arguments for litigants, and as such, this issue is deemed waived. See Rapid Pallet v. Unemployment Compensation Board of Review, 707 A.2d 636 (Pa. Cmwlth. 1998) (arguments not properly developed in a brief will be deemed waived by this Court when appellant's brief is inadequate to present specific issues for review). Espy's contentions that the appellant's brief is inadequate to present specific issues for review). Espy's contentions that the trial court did not address his counterclaims of harassment and trespass by the Borough and that his power to hold land is superior to the government are likewise rejected. The trial court addressed the counterclaims when it found that the municipal lien was proper and that William Street had been lawfully dedicated and accepted by the Borough Council. Espy's remaining contention lacks merit and requires no discussion by the court.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

ROARING SPRING BOROUGH	:	
	:	
v.	:	**NO. 2486 C.D. 1997**
	:	
GEORGE E. ESPY,	:	
Appellant	:	

ORDER

AND NOW this 24th day of July, 1998, the order of the Court of Common Pleas of Blair County is affirmed.

CERTIFIED FROM THE RECORD
AND ORDER EXIT

JUL 24 1998

/S
Deputy Prothonotary-Chief Clerk

/S
DORIS A. SMITH, Judge